

Hedison Manufacturing Company and Rhode Island Workers Union, Local 6, Service Employees International Union, AFL-CIO. Cases 1-CA-14050, 1-CA-14085, 1-CA-14086, 1-CA-14273, 1-CA-14274, and 1-CA-14600

27 March 1984

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS ZIMMERMAN, HUNTER, AND DENNIS

On 27 May 1980 the National Labor Relations Board issued a Decision and Order in Cases 1-CA-14050, 1-CA-14273, 1-CA-14274, and 1-CA-14600, this proceeding,¹ and on 26 March 1981 it issued a Supplemental Decision and Order in Cases 1-CA-14085 and 1-CA-14086.² In these decisions, the Board ordered, *inter alia*, that the Respondent make whole certain employees for their losses resulting from the Respondent's unfair labor practices. On 11 March 1981 the United States Court of Appeals for the First Circuit enforced in full the Board's Order in 249 NLRB 791.³ A controversy having arisen over the amount of backpay due to employees under the terms of the Board's Orders, the Acting Regional Director for Region 1, on 6 May 1983, issued a backpay specification and notice of hearing, and on 11 May 1983 issued an erratum thereto, alleging the amounts of backpay due. On 19 July 1983 the Respondent filed its answer to the backpay specification, in which it "admits all allegations in the Specification and as modified by the Erratum."⁴

On 5 December 1983 the General Counsel filed with the Board in Washington, D.C., a "Motion to Transfer Case to Board and for Summary Judgment," with exhibits attached. In his motion, the General Counsel moved that a Supplemental Decision and Order be issued (1) granting liquidation of the Respondent's back wage and interest debts in specified amounts and for the backpay periods alleged for each discriminatee in the backpay specification and its appendices, (2) ordering the Respondent to pay those debts according to procedures under the Bankruptcy Code, and (3) ordering Respondent, as administrator of the "Hedison Manufacturing Company Pension Plan and Trust," to calculate the future credits due each discriminatee for their wage entitlements and their years of serv-

ice during the "backpay period" alleged in the backpay specification, appendix 4(a)-4(nn), and to prepare and provide to the Regional Director for Region 1 a schedule of those future pension credits, together with a calculation of any appropriate contributions which may be necessary for the Respondent to fund the additional pension credits.

The Respondent did not file a response to the motion. Subsequently, on 8 December 1983, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the General Counsel's Motion for Summary Judgment should not be granted. The Respondent did not file a response to the Notice to Show Cause.

In his Motion for Summary Judgment, the General Counsel states that on 21 October 1981 the Respondent filed a petition for relief under Chapter 11 of the Bankruptcy Code, and that the Respondent has operated as a debtor-in-possession under the code since the filing of the petition.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

In light of the Respondent's admissions, there is no question raised as to the truth and accuracy of the allegations in the backpay specification. Thus, on the uncontroverted provisions of the backpay specification, and in accordance with the unopposed motion of the General Counsel for summary judgment, no cause having been shown by the Respondent why the motion should not be granted, the Board finds the facts set forth in the backpay specification, concludes that the net backpay and interest due each employee is as stated in the computations of the specification,⁵ and orders that payment thereof be made by the Respondent to each employee named below.⁶

ORDER

The National Labor Relations Board orders that the Respondent, Hedison Manufacturing Company, Lincoln, Rhode Island, its officers, agents, successors, and assigns, shall

1. Make whole each of the employees named below by payment to them, according to procedures under the Bankruptcy Code, the amounts set forth adjacent to their names, plus interest comput-

¹ 249 NLRB 791.

² 255 NLRB 339.

³ 643 F.2d 32 (1st Cir.).

⁴ In its answer the Respondent "denies that any violations . . . were done intentionally and were done merely upon the advice of prior counsel." Suffice it to say that the Respondent's culpability for the unfair labor practices committed is no longer in question.

⁵ Except as otherwise indicated, the General Counsel has calculated interest on all backpay to 21 October 1981, the date of the Respondent's filing of its bankruptcy petition; the General Counsel has specifically reserved further interest on postpetition backpay.

⁶ Member Hunter did not participate in the Board's consideration of the underlying unfair labor practices. In agreeing to grant the General Counsel's motion and to order the payment to employees of the amounts set forth in the backpay specification, Member Hunter expresses no opinion on the merits of these cases, which are not presently before the Board.

ed in the manner described in *Florida Steel Corp.*, 231 NLRB 651 (1977) (see generally *Isis Plumbing Co.*, 138 NLRB 716 (1962)), and accrued to the date of payment, minus tax withholdings required by Federal and state laws.

<i>Employee</i>	<i>Total Backpay</i>	<i>Interest (to 10/21/81)</i>
Linda Archambeault Bousquet	\$1,982.12	\$575.42
Leslie Barbeau	1,199.48	350.19
Lisa Barbeau Nadeau	864.01	257.93
Daniel Bedard	778.58	250.55
Kathleen Bourque	3,332.31	316.78
Daniel Carr	7,125.30	1,816.05
Mark Caya ⁷	24,436.44	4,449.46
	+ ¹ 2,000.00	0.00
	+ ² 5,203.57	³ 537.62
Annette Chicoine	202.06	65.02
Ivory Clements ⁷	21,712.16	3,931.94
	+ ¹ 1,119.34	5.66
	+ ² 13,694.32	³ 2,068.47
Blanche Descy	9,710.80	2,334.39
Therese Dolinski	1,697.24	501.73
Helen Dufresne Steeves	5,578.52	1,284.25
Carol Durand	2,038.91	601.21
Tracey Fitzpatrick	116.10	37.36
Theresa Gaulin	1,819.70	528.49
Luba Green	14,008.37	2,907.12
Marilyn Jellison	1,087.35	323.22
Mary Kucharski	0.00	0.00
Maurice Kujawski	11,272.72	1,845.40
Beverly LaFerriere	1,594.26	468.59
Suzanne Lariviere	2,435.57	722.58
Jane Lavoie	1,897.24	554.84
Rachel Leduc Theroux	2,246.24	188.71
Shirley Leonard	1,463.76	427.83
Anthony Lopes	3,637.53	1,111.69
Marion Lymburner	526.52	158.35

<i>Employee</i>	<i>Total Backpay</i>	<i>Interest (to 10/21/81)</i>
Deborah Marsella	0.00	0.00
Laycie Monteiro	85.35	27.47
Annette Philopovich	1,567.56	463.81
Sandra Rattie	1,275.21	278.35
Thomas Rattie	867.44	274.92
Therese Robertson	507.34	163.26
Helene Rondeau Mitchell	6,819.54	1,605.33
Susan Sherman	18,202.66	3,542.81
Cheryl Silva	1,231.70	396.36
Thomas Ferreira	6,619.99	1,944.03
Glen Hutloff	9,641.86	1,858.88
Thomas Lawton	1,384.89	445.65
Gary McKiernan	23,225.25	5,382.44
Russell Moison	9,419.72	2,181.06

¹ 507(a)(3) priority.

² 507(a)(1) priority.

³ Interest to 6/30/83.

2. As administrator of the Hedison Manufacturing Company Pension Plan and Trust, calculate the future credits due each of the employees named in paragraph 1 above for their wage entitlements and their years of service during the "backpay period" set forth in the backpay specification, appendix 4(a)-4(nn) and prepare and provide to the Regional Director for Region 1 a schedule of those future credits, together with a calculation of any appropriate contributions which may be necessary for the Respondent to fund the additional pension credits.

⁷ In his backpay specification, the General Counsel alleges, and the Respondent in its answer admits, prioritization of certain amounts owed to employees Caya and Clements, in accordance with the provisions of the Bankruptcy Act, 11 U.S.C. § 507 (Priorities).